

## **ENFORCEMENT SANCTION GUIDANCE POLICY**

**INTRODUCTION:** On November 19, 2001, Congress enacted the Aviation and Transportation Security Act (ATSA), which created TSA, and which transferred authority for enforcement of civil aviation security requirements from the Federal Aviation Administration to TSA. On July 21, 2009, TSA's Investigative and Enforcement Procedures, including the maximum civil monetary penalty amounts for violations of TSA's security regulations, were amended to conform to the Implementing Recommendations of the 9/11 Commission Act of 2007. The current civil penalty monetary amounts became effective on August 20, 2009.

**PURPOSE:** This sanctions policy provides guidance for imposing civil monetary penalties up to \$27,500 per violation for aircraft operators, up to \$10,000 per violation for surface transportation modes, and up to \$11,000 per violation for all other persons, including but not limited to individuals, airport operators, indirect air carriers, and small business concerns. This sanction guidance provides agency enforcement personnel with guidance in selecting appropriate sanctions for civil penalty enforcement actions and to promote consistency in enforcement of TSA regulations; it does not restrict TSA from proposing higher penalties or penalties for violations not listed in the Sanction Guidance Table. The purpose of this guidance is to assist, not replace, the exercise of judgment in determining the appropriate civil penalty in a particular case.

**CRIMINAL REFERRAL:** Referral for criminal investigation and enforcement is appropriate where there appears to be a violation of criminal laws. Criminal penalties and fines are different and wholly separate from the civil penalties assessed by TSA. Withdrawal of criminal charges will not affect civil penalty charges, and vice versa.

The Sanction Guidance Table ("Table") describes civil monetary penalties as minimum, moderate, or maximum for a single violation of a particular regulation. These terms are defined as follows:

- (1) Violations Committed by Aircraft Operators
  - Maximum \$18,000-\$27,500
  - Moderate \$9,000-\$17,999
  - Minimum \$2,500-\$8,999
  
- (2) Violations Committed by Airport Operators
  - Maximum \$7,500-\$11,000
  - Moderate \$3,700-\$7,499
  - Minimum \$1,000-\$3,699
  
- (3) Violations Committed by Indirect Air Carriers
  - Maximum \$7,500-\$11,000
  - Moderate \$3,700-\$7,499
  - Minimum \$1,000-\$3,699
  
- (4) Violations Committed by Rail Carriers, Shippers, and Receivers; and  
Violations Committed by Passenger Rail and Public Transportation Agencies
  - Maximum \$6,000-\$10,000
  - Moderate \$3,000-\$5,999
  - Minimum \$1,000-\$2,999

## **SANCTION GUIDANCE TABLE**

### **AIRPORT OPERATOR\***

1. Failure to ensure that Airport Security Coordinator (ASC) fulfills required functions	Min.
2. Failure to train ASC	Min.
3. Failure to allow TSA inspection	Max.
4. Failure to provide evidence of regulatory compliance	Max.
5. Failure to provide SIDA access ID to TSA personnel	Mod.
6. Failure to carry out a requirement in the security program (general violation to be used when more specific violation is not listed)	Mod.-Max.
7. Failure to restrict the distribution, disclosure of SSI	Min.-Max.
8. Failure to notify TSA of changes to its security program	Min.
9. Access control violations - Secured area, AOA, SIDA, and access control systems	Max.
10. Failure to follow escort procedures	Mod.
11. Failure to train or to maintain training records	Min.-Mod.
12. Criminal history records check – Failure to perform, failure to suspend, failure to investigate charges	Max.
13. Failure to maintain record of law enforcement response	Min.-Mod.
14. Failure to comply with Security Directive	Max.
15. False entry in record or report	Max. + Criminal Referral
16. Failure to comply with requirements related to adequate law enforcement response/support	Max.

\*Airport tenants operating under valid Exclusive Area Agreements assume responsibility for certain airport operator security responsibilities. For violations of security requirements assumed by such airport tenants, the airport operator section of the sanction guidance should be employed.

## **AIRCRAFT OPERATOR AND FOREIGN AIR CARRIER**

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|---|--------------------------|
| 1. Failure to carry out security program (covers all violations of security program requirements; general violation to be used if more specific violation is not listed in the Table) | Mod.-Max.                |
| 2. Failure to allow TSA inspection  | Max.                     |
| 3. Failure to provide evidence of regulatory compliance   | Max.                     |
| 4. Failure to provide SIDA access ID to TSA personnel   | Mod.                     |
| 5. Failure to restrict distribution and disclosure of security program  | Mod.-Max.                |
| 6. Failure to comply with a security requirement pertaining to the acceptance, control, or screening of checked baggage   | Max.                     |
| 7. Failure to comply with a security requirement pertaining to the acceptance, control, or screening of cargo   | Max.                     |
| 8. Screening violations, where conducted by aircraft operator, an individual, metal detection devices, x-ray, explosives detection  | Mod.                     |
| 9. Failure to comply with requirements for carriage of an accessible weapon by an armed LEO   | Mod.                     |
| 10. Failure to prevent unauthorized access to secured area or to aircraft   | Max.                     |
| 11. Failure to conduct a security inspection of aircraft  | Mod.-Max.                |
| 12. Failure to comply with criminal history records check requirements  | Max.                     |
| 13. Failure to comply with requirements for aircraft operator-issued identification and access media  | Mod.                     |
| 14. Failure to train or to maintain training records  | Min.-Mod.                |
| 15. Failure to comply with Security Directives  | Max.                     |
| 16. Failure to comply with security requirements related to screening (including CCSP violations)   | Mod.-Max.                |
| 17. False entry in record or report   | Max. + Criminal Referral |
| 18. Failure to transport Federal Air Marshals   | Max.                     |
| 19. Failure to pay security fees  | Mod.                     |

## **OTHER AVIATION SECURITY REQUIREMENTS**

### **Part 1550:**

Failure to comply with a security requirement set forth in,  
or pursuant to, 49 C.F.R. part 1550 Max.

### **Flight Training Providers:**

Failure to comply with any requirement issued pursuant to  
49 U.S.C. § 44939 and set forth in 49 C.F.R. part 1552 Mod.-Max.

Flight training providers that are also aircraft operators are subject to a civil penalty maximum of up to \$27,500 per violation. Flight training providers that are not aircraft operators are subject to a civil penalty maximum of up to \$11,000 per violation.

## **CARGO SECURITY**

This part applies to all persons who offer, accept, or transport cargo pursuant to a TSA-approved security program and/or subject to the requirements of the Transportation Security Regulations. Such persons include, but are not limited to, aircraft operators, Certified Cargo Screening Facilities (CCSF), and indirect air carriers (IACs).

1. Acting as an IAC without an approved program Max.
2. Failure to retain or produce training records Min.-Mod.
3. Failure to provide required training Mod.
4. Failure to inform agent in writing of responsibilities under the program Min.
5. Failure to comply with the TSA-approved security program  
(general violation to be used if a more specific violation is not given) Mod.-Max
6. Failure to comply with current amendments to the program Mod.-Max.
7. Failure to produce copy of the program, relevant portions, or  
implementing instructions at a station where cargo is accepted  
or processed Min.
8. Failure to restrict distribution of security program or  
implementing instructions to persons with a need to know Mod.-Max.
9. Failure to maintain or to be able to produce a current listing of  
authorized agents/contractors (chronic or intentional failures) Mod.-Max.
10. Failure to supply certification to the aircraft operator Min.
11. False certification supplied to aircraft operator Max. + Criminal Referral

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| 12. Failure to comply with any requirement necessary to establish a known shipper (repeated failure would justify a maximum penalty)                                   | Mod.                     |
| 13. Falsification of any document/statement required under the security program  | Max. + Criminal Referral |
| 14. Failure to meet any requirement for accepting cargo from an all-cargo aircraft operator with an approved security program (depending on nature of the requirement) | Min.-Max.                |
| 15. Failure to control access to cargo by unauthorized persons   | Mod.-Max.                |
| 16. Failure to transport cargo in locked or closely-monitored vehicle (includes CCSF chain-of-custody violations)  | Mod.-Max.                |
| 17. Failure to comply with cargo-acceptance requirements   | Mod.- Max.               |
| 18. Failure to allow access for inspections (sanction should be imposed for every day that access is denied)   | Mod.- Max.               |
| 19. Failure to comply with any requirement related to the screening or inspection of cargo (including failure to screen the required percentage of cargo)              | Mod.-Max.                |
| 20. Failure to obtain required IAC certification   | Min.-Mod.                |
| 21. Failure to comply with the requirement to submit complete STAs according to 49 C.F.R. § 1548.16  | Mod.-Max.                |

**RAIL CARRIERS, SHIPPERS, RECEIVERS, PASSENGER RAIL, AND PUBLIC TRANSPORTATION AGENCIES**

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| 1. Failure to allow, or cooperate with, TSA inspection   | Max.      |
| 2. Failure to put a Rail Security Coordinator (RSC) in place or failure to report change of RSC to TSA | Max.      |
| 3. Failure to document that a Rail Security Coordinator is in place                                    | Min.      |
| 4. Failure to implement system for reporting security concerns/incidents                               | Max.      |
| 5. Failure to report a significant security concern (single event)                                     | Min.      |
| 6. Pattern of noncompliance in reporting significant security concerns                                 | Mod.-Max. |
| 7. Failure to implement system for chain-of-custody documentation*                                     | Max.      |
| 8. Leaving RSSM rail car(s) unattended during physical transfer of custody*                            | Mod.      |

9. Failure to document transfer of custody (single event)*	Min.
10. Failure to maintain transfer-of-custody documents (unable to produce records at time of inspection)*	Mod.
11. Failure to keep loaded RSSM cars in a rail secure area*	Mod.
12. Pattern of chain-of-custody noncompliance*	Max.
13. Failure to have process in place to provide RSSM car location*	Mod.
14. Failure to provide information for a single car within five minutes of request (Class 1 Railroad only)*	Min.
15. Failure to provide requested information within 30 minutes*	Min.
16. Failure to provide telephone number to TSA for requesting car location*	Mod.
17. Pattern of noncompliance in providing location and shipping information*	Mod.-Max.

\*Does not apply to passenger rail or public transportation agencies

## **INDIVIDUALS**

### **I. Security Violations by Individuals for Prohibited Items Discovered at Checkpoint/Sterile Area/Onboard Aircraft**

#### **A. Firearms, Realistic Firearm Replicas, and Shocking Devices**

1. Loaded firearms (or unloaded firearms with accessible ammunition)	\$3,000-\$7,500 + Criminal Referral
2. Unloaded firearms	\$1,500-\$3,000 + Criminal Referral
3. BB, pellet, and compressed-air guns; flare and starter pistols; realistic replicas of firearms (including gun lighters); permanently inert firearms; spear guns; stun guns, cattle prods, or other shocking devices	\$250-\$1,500
4. Firearm parts	up to \$1,500

#### **B. Sharp Objects**

1. Axes and hatchets; bows and arrows; ice axes and ice picks;  
knives with blades that open automatically (such as  
switchblades); knives with blades that open via gravity (such

	as butterfly knives); any double-edge knives or daggers; meat cleavers; sabers; swords; and machetes	\$250-\$1,500
	2. Knives that are illegal under state or local law; throwing stars	up to \$1,500
C.	<u>Club-like Items</u> Billy clubs, batons; blackjacks; brass knuckles; nunchucks; night sticks	up to \$1,500
D.	<u>Incendiaries</u> Any flammable liquid or gel fuels, including gasoline, lighter fluids, cooking fuels; turpentine and paint thinners	up to \$1,500
E.	<u>Disabling Chemicals</u>	
	1. Self-defense spray; tear gas	\$250-\$1,500
	2. Chlorine and other chemicals for pools/spas; compressed gas cylinders (including fire extinguishers); liquid bleach	up to \$1,500
F.	<u>Explosives</u>	
	1. Blasting caps; dynamite; gunpowder (more than 10 oz.); hand grenades; plastic explosives; all other high explosives	\$6,000-\$11,000 + Criminal Referral
	2. Consumer fireworks, novelty fireworks, professional display fireworks; flares; gunpowder (10 oz. or less); realistic replicas of explosives; ammunition	\$250-\$1,500 + Criminal Referral
II.	<u>Security Violations for Prohibited Items Discovered in Checked Baggage</u>	
A.	<u>Firearms</u>	
	1. Loaded firearms	\$1,000-\$2,000 + Criminal Referral
	2. Undeclared or improperly packaged firearms	\$500-\$1,000
B.	<u>Incendiaries</u> Any flammable liquid or gel fuels, including gasoline, lighter fluids, cooking fuels; turpentine and paint thinners	up to \$1,500
C.	<u>Disabling Chemicals</u>	
	1. Tear gas	\$250-\$1,500
	2. Chlorine and other chemicals for pools/spas; compressed gas cylinders (including fire extinguishers); liquid bleach	up to \$1,500

D. Explosives

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|--|--------------------------------------|
| 1. Blasting caps; dynamite; gunpowder (more than 10 oz.); hand grenades; plastic explosives; all other high explosives                         | \$6,000-\$11,000 + Criminal Referral |
| 2. Consumer fireworks, novelty fireworks, professional display fireworks; flares; gunpowder (10 oz. or less); realistic replicas of explosives | \$250-\$1,500 + Criminal Referral    |

III. Other Security Violations by Individuals or Persons\*

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|--|-------------------------------------|
| A. Attempt to circumvent a security system, measure, or procedure by the artful concealment of a non-explosive liquid, aerosol, or gel (other than those permitted)  | \$100-\$200                         |
| B. Interference with screening   |                                     |
| 1. Including physical contact  | \$1,500-\$5,000                     |
| 2. Non-physical interference   | \$500-\$1,500                       |
| 3. False threats   | \$1,000-\$2,000                     |
| C. Entering sterile area without submitting to screening   | \$1,000-\$3,000                     |
| D. Tampering or interfering with, compromising, modifying, attempting to circumvent, or causing a person to tamper or interfere with, compromise, modify or attempt to circumvent any security system, measure, or procedure. Includes the artful concealment of prohibited items (except for those prohibited items covered by section III.A., above) | \$1,500-\$6,000                     |
| E. Entering or being present within a secured area, AOA, SIDA, or sterile area without complying with the systems, measures, or procedures being applied to control access to, or presence or movement in, such areas  | \$500-\$3,000                       |
| F. Improper use of airport access medium   | \$500-\$3,000                       |
| G. Fraud and intentional falsification   | \$2,500-\$6,000 + Criminal Referral |
| H. Failure to allow inspection of airman certificate, authorization, FAA license   | \$1,000-\$3,000                     |

\*Violations not listed above are subject to the regulatory civil penalty maximum.